

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**MILTON E. DAVIS,**  
*Plaintiff,*

**v.**

**COMMISSIONER, SOCIAL SECURITY  
ADMINISTRATION,**  
*Defendant.*

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**CIVIL ACTION No. 6:13-cv-900-  
MHS-JDL**

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**


Plaintiff Milton E. Davis initiated this civil action pursuant to Social Security Act, Section 205(g) for judicial review of the Commissioner's denial of Plaintiff's application for Social Security benefits. The case was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the decision of the Commissioner should be affirmed and the action dismissed with prejudice.

The Report and Recommendation of the Magistrate Judge, which contains his findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. Plaintiff has filed an objection to the Report and Recommendation (Doc. No. 20). Specifically, Plaintiff objects to Judge Love's finding that the ALJ's determination of Plaintiff's credibility, Plaintiff's RFC, and step four findings are supported by substantial evidence. *Id.* at 1. In general, Plaintiff raises arguments nearly identical to those raised in Plaintiff's briefing. *Id.* Plaintiff objects to the Magistrate Judge's consideration of the medical records cited by the ALJ, specifically those records that showed Plaintiff "had a normal gait, and was able to tandem gait with some difficulty," because "[n]either gait nor tandem gait addresses (1) Mr. Davis's reported limitations on standing and walking, nor (2) duration or distance of standing or walking." *Id.* at

1, 3. However, as discussed in the Report and Recommendation, the ALJ considered additional medical records with findings related to Plaintiff's range of motion in both upper and lower extremities, his motor strength, and his regular exercise. (Doc. No. 19, at 9-10.) As was further discussed by the Magistrate Judge, these findings were not inconsistent with Plaintiff's own testimony regarding his ability to walk, sit, and stand. *Id.* Therefore, Judge Love concluded that the ALJ did not err in his credibility assessment of the Plaintiff or in his RFC finding, and ultimately his Step Four finding, because they were supported by substantial evidence. (Doc. No. 19, at 10-11.) Accordingly, the Court agrees with the Magistrate Judge's finding that the ALJ did not err in his credibility determination, RFC finding, or Step Four finding.

Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly **ORDERED** that the decision of the Commissioner is **AFFIRMED** and the complaint is hereby **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that any motion not previously ruled on is **DENIED**.

**SIGNED this 25th day of August, 2015.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE